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10/544,403	12/05/2005	Hiroaki Dei	Q89586	9930
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SUGHRUE MION, PLLC				
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EXAMINER				
SAINT CYR, JEAN D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/544,403

**Applicant(s)**

DEI, HIROAKI

**Examiner**

JEAN D. SAINT CYR

**Art Unit**

2425

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Double Patenting**

Claims 1 and 44 are provisionally rejected on the ground of nonstatutory double patenting over claim 24 of copending Application No. 10/546,448. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: claims 1, 44 are obvious variants and encompassed by claim 24 of the application '448'.

### **Response to Amendment**

This action is in response to applicant's amendment filed on 11/26/2008. Claims 1, 12, 14, 25, 35, 44 are still pending in the current application. This action is made FINAL.

### **Response to Arguments**

Applicant's arguments were fully considered, but they were not persuasive. Applicant argues that Sato et al did not disclose selecting video encoded data based on the video quality and/or compression ratio. Also, applicant argues that Sato et al did not disclose selecting a session of distribution according to the compression ratio when it distributes video encoded data of the same video, but having different ratio.

However, Sato et al disclose reporting, from the information delivery apparatus to the wireless terminals, the differing transmission conditions used to transmit the plurality of sets of multicast information, and measuring reception quality at each of the wireless terminals, and selecting a transmission condition from the reported differing transmission conditions based on the measured reception quality.

Finally, Sato et al disclose transmits the plurality of sets of multicast information having the same contents but varying in the transmission conditions. As a result, this action is made final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 12, 14, 25, 35, 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al, US Patent No. 6895216.

Re claim 1, Sato et al disclose means for multicast or broadcast distributing video encoded data of the same video, but having different compression ratios (a wireless terminal that cannot attain sufficient reception quality at a high transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59; transmits the plurality of sets of multicast information having the same contents but varying in the transmission conditions, col.2, lines 38-40); and

means for selecting a session of multicast or broadcast distribution according to the compression ratio(a modulation scheme may be chosen so as to select a transmission rate from more than two different transmission rates, col.11, lines 1-2).

Re claim 12, Sato et al disclose means for receiving session information notified by a video data distribution device(receives one of sets of the multicast information sent from the information delivery apparatus by using transmission conditions selected based on the measured reception quality, col.4, lines 32-34)

means for receiving video encoded data distributed by a video data distribution device based on said session information, and selecting video encoded data from encoded data, received normally based on the video quality and/or the compression ratio(a wireless terminal that cannot attain sufficient reception quality at a high

transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59); and

means for decoding video encoded data selected (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56)

Re claim 14, Sato et al disclose a video data distribution device distributing video data, and a video data reception device receiving video data distributed by said video data distribution device (col.2, lines 56-59); wherein said video data distribution device comprises means for selecting a session of distribution according to the compression ratio when it distributes video encoded data of the same video, but having different compression ratios(delivering the same multicast information at different transmission rates,col.3, lines 61-62; transmits the plurality of sets of multicast information having the same contents but varying in the transmission conditions, col.2, lines 38-40), and for at least one session of distribution transmission is performed by multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37).

Re claim 25, Sato et al disclose distributing, by said video data distribution device, video encoded data of the same video, but having different compression ratios (transmits the plurality of sets of multicast information having the same contents but varying in the transmission conditions, col.2, lines 38-40); and

controlling the quality of a video received by a receiver by changing session information notified according to the receiver(a wireless terminal that cannot attain sufficient reception quality at a high transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59; col.3, lines 26-36); wherein

at least one session of distribution is transmitted in multicast or broadcast (transmit the plurality of sets of multicast information, col.3, lines 36-37).

Re claim 35, see rejection on claim 25.

Re claim 44, a video data distribution device, a video data reception device, and a transmission path for transmitting information from said video data distribution device to said video data reception device(an information delivery apparatus for delivering multicast information to wireless terminals through wireless routes, col.4,lines 19-21); wherein

said video data distribution device comprises; means for distributing multiple video encoded data of the same video, but having different compression ratios in multiple different sessions (transmits the plurality of sets of multicast information having the same contents but varying in the transmission conditions, col.2, lines 38-40) ; and

means for notifying information including information on a session permitted to be distributed and/or a video quality permitted to be received to said video data reception device (notifying the information delivery apparatus of measured results of the reception quality, and determining, at the information delivery apparatus, the differing transmission conditions based on the measured results of the reception quality, the differing transmission conditions being used to transmit the plurality of sets of multicast information, col.3, lines 26-36);provided that at least one session of distribution is transmitted in multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37) ;

and said video data reception device comprises; means for receiving video encoded data distributed in at least one session based on session information notified by said video data distribution device(a wireless terminal that cannot attain sufficient reception

quality at a high transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59);

means for selecting data from received video encoded data based on the video quality and/or the compression ratio, and reconstructing it into one piece of video encoded data(reporting, from the information delivery apparatus to the wireless terminals, the differing transmission conditions used to transmit the plurality of sets of multicast information, and measuring reception quality at each of the wireless terminals, and selecting a transmission condition from the reported differing transmission conditions based on the measured reception quality, col.2, lines 51-59);  
and

means for decoding reconstructed video encoded data (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean Duclos Saintcyr /

/Brian T. Pendleton/  
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